THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TRADE SUPPORT LOANS AMENDMENT (IMPROVING ADMINISTRATION) BILL 2019

ADDENDUM TO THE EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Employment, Skills, Small and Family Business
the Honourable Michaelia Cash MP)
TRADE SUPPORT LOANS AMENDMENT (IMPROVING ADMINISTRATION) BILL 2019

This Addendum responds to concerns raised by the Senate Standing Committee for the Scrutiny of Bills in Scrutiny Digest No. 10, dated 5 December 2019, and Scrutiny Digest No. 1, dated 5 February 2020.

Schedule 1 – Amendments
Detailed explanation of amendments
Items 1 to 6 and items 10 and 11 - Sections 11 and 90

After the third paragraph on page 9 (beginning with the words ‘The expansion of the Secretary’s powers’), insert the following:

The Secretary’s discretion under new subsection 11(3) to reduce future payments addresses the fact that the TSL recipient will have retained a TSL payment that would otherwise be an overpayment debt. TSL payments are made to assist Australian Apprentices with the cost of undertaking their training. Where a TSL payment is made in circumstances where a recipient is not eligible and the recipient benefits from a subsection 11(1) determination, in most circumstances where future TSL becomes payable, the usual expectation would be that the Australian Apprentice should use the overpaid amount for their future support needs, and that future TSL payments would be reduced accordingly.

However, when considering the relevant and unique circumstances of a particular Australian Apprentice or a group of Australian Apprentices in similar circumstances, these amendments have been drafted to ensure that the Secretary has flexibility to determine which repayment method(s) are appropriate to be offered in particular situations, consistent with the purposes of TSL. This will ensure the possibility of debts being recovered in appropriate circumstances, while ensuring that no undue financial pressure is applied to Australian Apprentices which may have the potential to negatively impact their ability to successfully complete their apprenticeship.

All of the circumstances in which it may become appropriate to reduce the amounts of later TSL instalments are not certain and cannot necessarily be foreseen. Specifying the detail of the only circumstances in which payments may be reduced in the Act could have the potential to either prevent the Secretary from reducing future payments of TSL where it would be appropriate to do so, or may lead to the Secretary being required to reduce a payment of TSL where it may not continue to be appropriate. The ability to determine, in rules made under new subsection 11(4), circumstances in which the amounts of later TSL instalments may be reduced, will allow the Minister to address identified emerging patterns in a timely manner, and as circumstances change, as the implementation of these amendments is monitored. Importantly, any amendments to the TSL Rules, prescribing circumstances for the purposes of new subsection 11(4),
would be subject to Parliamentary scrutiny and possible disallowance by either House of Parliament, should either House consider that the rules are unfair or otherwise inappropriate.